

**REMARKS**

Please reconsider the application in view of the above amendments and the following remarks.

**Disposition of Claims**

Claims 1-12, 18, and 21-27 are pending in the application. Claims 13-17 and 19-20 are cancelled by this reply without prejudice or disclaimer. Further, new claims 21-27 are added by this reply. Claims 1 and 18 are independent. The remaining pending claims depend, directly or indirectly, from independent claims 1 and 18.

**Claim Amendments**

Claims 1 and 18 have been amended by this reply to clarify the invention. Support for these amendments may be found, for example, in paragraphs [0020], [0023]-[0027], and [0031] of the originally-filed application. Further, claim 2 has been amended for consistency with amendments made to independent claim 1. No new matter has been added by any of the aforementioned amendments.

**Rejections under 35 U.S.C. § 112**

Claims 14-16 were rejected under 35 U.S.C. § 112, second paragraph. Claims 14-16 are cancelled by this reply. Accordingly, this rejection is now moot and withdrawal is respectfully requested.

**Rejections under 35 U.S.C. § 103**

Claims 1-20 stand rejected 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 7,117,495 (“Blaser”) in view of U.S. Patent Application Publication No. 2002/0174215 (“Schaefer”). Claims 13-17 and 19-20 are cancelled by this reply without prejudice or disclaimer. Accordingly, this rejection is now moot with respect to the cancelled claims. With respect to the pending claims, this rejection is traversed.

Independent claim 1 requires, in part, that (i) the application is initially installed in a non-global zone (referred to in the claims as “remote non-global zone”); (ii) the remote non-global zone is an execution environment; (iii) the remote non-global zone is configured to execute the application; (iv) when deployed, the remote non-global zone is re-created, from the application zone package, on a target global zone; (v) the target global zone is an execution environment; and (vi) the execution environment in (v) is isolated from the execution environment of the remote non-global zone (after the remote non-global zone is deployed on the target global zone). *See*, for example, paragraphs [0020], [0023]-[0027], and [0031] of the originally filed application

Turning to the rejection, MPEP § 2143 states that “[t]he key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious.” The Supreme Court in *KSR International Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1739, 75 U.S.L.W. 4289 (2007) noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. *See*, MPEP §2143. In the Office Action mailed February 24, 2009, the Examiner, in articulating the analysis used to reject the claims under 35 U.S.C. § 103, has described the various claimed elements taught and not taught by Blaser. *See* Office Action, pp. 4-11. Further, the Examiner has described the various claimed elements taught by Schaefer, which are not taught by

Blaser. *Id* at p. 4. The Examiner then concludes by asserting that “it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Blaser to provide an execution environment for the application that is a partition of an operation system as taught by Schaefer...” *Id* at p.5

Using the above rationale, the Examiner “must articulate the following: (1) a finding that the prior art included each element claimed, although not necessarily in a single prior art reference, with the only difference between the claimed invention and the prior art being the lack of actual combination of the elements in a single prior art reference; ...” MPEP § 2143(A).

Applicants assert that neither Blaser nor Schaefer disclose or render obvious amended independent claim 1.

The Examiner misconstrued the disclosures of the aforementioned prior art

The Examiner asserts that an application layer of Blaser is equivalent to a non-global zone. *See* Office Action, p. 4. The Examiner then admits that Blaser fails to disclose that the non-global zone is an execution environment and instead relies on Schaefer to disclose execution environments. *Id*. Unfortunately, the Examiner misconstrued the disclosures of the aforementioned prior art in making the above rejection.

In particular, the Examiner appears to be asserting that it would have been obvious to modify an application layer in Blaser to provide an execution environment as recited in the claims. Such a modification would not be obvious as it ignores the fact that a file storage construct is not equivalent and may not be modified to be an execution environment.

Specifically, the application layer in Blaser relates to a file storage construct in which files may be stored in particular “application layers” in order to facilitate management and/or isolation of such files. See Blaser, Figs. 3-4, cols. 4-5, and 13-14. Further, the application layers are implemented using a File System Layer (FSL) driver, which provides/controls access to files in a given application layer. *Id.* In contrast, an execution environment is able to execute applications.

There is nothing in the art that would motivate one to modify a file storage structure to make it an execution environment. Further, it is not clear how one would make such a modification based on the fact that the functionality of the file storage structure has nothing to do with the ability to execute an application.

None of the prior art discloses or renders obvious configuration of an execution environment prior to deployment

Moreover, even assuming *arguendo*, that an application layer is equivalent to a non-global zone, the application layer in Blaser is not “configured to execute the application” as required by amended independent claim 1. Further, Schaefer does not disclose or otherwise render obvious configuration of an execution environment *prior* to deploying the execution environment.

Conclusion

In view of the above, amended independent claim 1 is patentable over the cited prior art. Amended independent claim 18 includes at least the same patentable limitations as amended independent claim 1. Accordingly, amended independent claim 18 is patentable over the cited prior

art for at least the same reasons as claim 1. Pending dependent claims are allowable for at least the same reasons. Withdrawal of this rejection is respectfully requested.

### **New Claims**

New claims 21-27 have been added by this reply. Support for the new claims may be found, for example, in originally filed claims 2-12. New claims 21-27 depend from independent claim 18. Accordingly, new claims 21-27 are patentable over the cited prior art for at least the same reasons as independent claim 18. Favorable consideration in the form of a Notice of Allowability is respectfully requested.

### **Conclusion**

Applicant believes this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 03226/414001).

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Respectfully submitted,

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